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REMARKS

ON THE

NARRAGANSET PATENT.

READ BEFORE

The Massachusetts Historical Society,

JUNE, 1862,

BY THOMAS ASPINWALL.

SECOND EDITION.

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PREFATORY REMARKS.

THE NARRAGANSET PATENT, the subject of the following pages, is an instrument engrossed on parchment, at present at the State House, which purports to be a grant, dated Dec. 10, 1643, from the Parliamentary Commissioners to the Governor, &c., of the Colony of Massachusetts, of the territory which substantially at present constitutes the State of Rhode Island.

This patent having been a subject of discussion in the Massachusetts Historical Society on one or two occasions, the author was induced to inspect the instrument itself. The result of his examination, made on the 29th of March, 1860, was briefly stated, in a description which he gave of it in its present condition, at the meeting of the Society in the following May, accompanied with a few remarks comprising the following principal heads,—that the patent was invalid, not having been signed by a majority of the Commissioners, as required by ordinance; that it therefore afforded no justification of the severities of our forefathers towards their weaker neighbors; that it was not mentioned by Winthrop or Hutchinson; that Roger Williams had asserted, that the patent had been publicly disavowed by the Lord President of the Board of Plantation Commissioners; that it was now clear that Roger Williams's account was true; and, finally, that Winthrop's silence was probably owing to his consciousness of the worthless character of the instrument.

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Nearly two years after, at the February meeting, in 1862, an official copy of the patent was produced and commented on by Mr. Deane. In the course of his remarks, he controverted most of the positions previously taken by the author. He contended that the patent was valid, and would have been so had it been signed only by the President and any four of the Commissioners; that Roger Williams's testimony in disparagement of its validity was not altogether to be relied upon. He showed that it had been once alluded to by Winthrop; and had also, on that occasion, as he conceived, been treated as genuine and legal. These counter-statements and some others of less relevancy are answered in the following pages, and some further considerations are added, which perhaps may serve to elucidate the character and history of the subject. A summary and two notes have been appended since the paper was read to the Society.

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THE NARRAGANSET PATENT.

Mr. PRESIDENT,—At our last February meeting, our honored colleague, Mr. Deane, gave a commentary, marked with his accustomed ability and spirit of research, on a copy of the Narraganset Patent, which had been furnished him from your own collection of historical and family papers. Towards the close of his observations, he courteously animadverted upon some remarks against the validity of that patent, which I had made here, two years ago, after having inspected the original document at the State House.

The revival of the subject was wholly unexpected by me; and although I could hardly, on a sudden, recollect precisely the remarks I had made so long before, or so clearly discern the force and tendency of the objections brought against them as to give a complete answer to each objection, yet I felt desirous to satisfy the Society that I had not lightly obtruded upon it a crude opinion respecting a subject of historical interest, and likewise that I had sound reason for adopting, and for continuing to maintain, that opinion: but having given way to a senior member, who rose at the same moment to speak on the subject, it so happened that I had not the good fortune afterwards to obtain a hearing,—a circumstance which I the more regret, because it deprived me of the opportunity (I will not say advantage) of having my defence appear in the latest volume of our Proceedings, side by side with the criticism which it was intended to answer.

With permission, I will now avail myself of this first regular return of my section to enter upon the vindication of my opinion in regard to the patent.

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In the beginning of Mr. Deane's notice of my remarks, it is said, that, "in proof of the nullity of the patent, I had alleged that the document had no seal, public or private, nor any indication of enrolment or registration" (Proceed. Hist. Soc., iii. 404). Now, these words are part of the description I gave of the document in its present condition; but they form no part of my argument. On the contrary, my inference, that the patent was a nullity, was distinctly drawn from the simple fact, that it did not bear the signatures of so many of the commissioners as the parliamentary ordinance prescribed. (*Idem*, p. 40; Hazard, i. 533).

I deemed it useful to mention the absence of seals and indorsements of any kind, that the actual state of the instrument, at this particular period, might be accurately known. I may add, that a knowledge of its state, at different periods, might shed much light on what is now obscure in its origin and history. Besides, the absence of all indications of enrolment or registration determined at once the character of the instrument as an original, and not an enrolment duplicate, nor an exemplification; in both which latter, such indications, as a matter of course, would have appeared.

Mr. Deane's argument also erroneously assumes, that I had represented the inscription of some note, or memorandum of enrolment, as an indispensable prerequisite of a valid charter. It is true, that, by the laws of England (27 Hen. VIII., c. 11; Bl. Com., ii. c. xxi. § 2), all letters-patent must be enrolled; and the fact of enrolment is sometimes noted upon them. This I apprehend, however, to be a discretionary act, mostly professional rather than official, and not enjoined by law or regulation.

I may here state, that I am not aware of any evidence extant, nor even of any pretence, that this indispensable formality of enrolment was ever complied with in the case in question. On this account alone, the Narraganset Patent would be fatally defective from the beginning.

As, under the third head of Mr. Deane's comment on my remarks, his argument addresses itself in form, apparently to

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the phraseology rather than to the substance of my reasoning, it may be advisable, for the moment, to consider it in that light. I had said that the patent was invalid, because it had not the assent of a majority of the Board of Commissioners, which, by the ordinance, was required for *each* of its acts. Mr. Deane seems to think it sufficient to meet this inference by stating, in effect, that, in consequence of authority given to the president and any four commissioners to perform certain functions, a majority was not necessary for *all* acts whatever; but I was not speaking of ordinary official details, nor of such current business, as, in most analogous cases, is transacted by a few out of the whole body of associates. The subject treated of was a patent; and my meaning naturally was, that for issuing a patent, and for each act of that nature, the concurrence of a majority was requisite. My expression, "each of its acts," is, in truth, not scrupulously exact. Had it been "such of its acts," or "acts of this kind," either phrase would have been a more exact version of the sense of the ordinance, and have been quite sufficient to embrace the case of the patent under consideration, without extending to other acts with which the subject was not connected.

But taking it for granted that a logical confutation, and not a mere verbal criticism, was intended, I proceed to the consideration of Mr. Deane's argument. He alleges that the patent is valid, although signed by less than a majority of the commissioners, because a majority is necessary only for certain specific acts; while, for the transaction of the general business of the Board, the ordinance requires only the assent of the president and any four of his associates. To which I reply, that the grant of a charter, such as that in question, is precisely one of those exceptional specific acts which could only be legalized by a majority.

The object of the clause relative to the president and four commissioners was, primarily, to fix the lowest number by which any business could be done; but I have failed to discover a single instance in which that mere quorum ever acted. The perilous aspect of the times would suggest to the commis-

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sioners the obvious expediency of sharing responsibility among as many as possible. Their practice coincided with this view of their position. In Winthrop's Journal are four documents emanating from the Committee of Plantations, and every one of them is signed by a majority or more of the commissioners (ii. 272, 280, 318, 320).

Again: the sphere of duty assigned to this smaller quorum was administrative. It included neither the power of appointment to plantation-offices, nor the authority to change, in any degree, the existing form or system of territorial government. Both these subjects were, by subsequent clauses of the ordinance, distinctly placed under the control of the chief governor and commissioners, or the greater number of them (Hazard, i. *ut supra*).

The clause which specially concerns the present question is as follows: "And whereas, for the better government and security of the said plantations, islands, owners, and inhabitants, there may be just and fit occasion to assign over some part of the power and authority, granted in this ordinance to the chief governor and commissioners aforenamed, unto said owners, inhabitants, and others, it is hereby ordained, that the said governor and commissioners, or the greater number of them, shall be hereby authorized to assign, ratify, and confirm so much of their aforenamed authority and power to such persons as they shall judge fit for the better governing and preserving of said plantations and islands from open violence and private disturbances."

By this clause, no transfer of the power and authority vested in the commissioners could be made without the assent of a majority. At the date of the ordinance, the power and jurisdiction of the Board of Commissioners extended, and might, at discretion, have been exercised directly, over the whole territory described in the Narraganset Patent, and over all its internal, intercolonial, and external relations.

A simple cession of the soil, unaccompanied by any express reservation, if made to a chartered corporation invested with the powers of civil government, would have carried with it the

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right of government, at least *ad interim*, and during the pleasure of the Board.

Such was the construction given by the Connecticut authorities to the Warwick Patent, or rather deed of conveyance, to Lord Say and Seale and others, of the 19th March, 1631–2; although Connecticut, at the time of her subsequent purchase from Fenwick, was only a voluntary association; and although the deed itself contains no express nor any implied transfer of civil power beyond what may be gathered from the loose and general words "jurisdiction, rights," &c., whatever they might be, of the grantors. Nor, again, is there in the deed any recital of title, or even phrase, to explain what rights the Earl of Warwick had, or whence he obtained them.

The Massachusetts authorities adopted a similar construction of the Narraganset Patent, in their letter dated the 27th of August, 1645, forbidding Roger Williams "to exercise jurisdiction in Providence and the Island of Quiday." But they had stronger grounds for this construction. The Narraganset Patent is explicit. The transfer of dominion is clearly set forth in that clause, which "orders and appoints the governor, assistants, and freemen of Massachusetts to govern" the Narraganset territory in the same manner as was prescribed in their own royal charter. This being such an assignment of power and authority as required the assent of a collective majority of the chief governor and commissioners, and the Narraganset Patent having only nine signatures (one less than a majority), is, therefore, and always was, a nullity, invalid, of no force and effect whatever; and never could have passed the commissioners' table, unless we resort to the bold assumption, that the Board deliberately, in the outset of its official career, set at defiance the organic ordinance to which it owed its existence.

The declaration of the Earl of Warwick, that he was sure the patent had never passed the table, if made, as asserted by Roger Williams in his letter to Mason, (1 Mass. Hist. Coll., i. 279), would be conclusive proof of the fact. The patent could not have passed without his knowledge, because the ordinance required that he should be present at all meetings, even of that

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smaller quorum by which Mr. Deane supposes it might have been passed. If, therefore, it be conceded that the Board would not illegally confirm an illegal instrument, the question raised under Mr. Deane's fourth division is narrowed down to this single point: Did the earl actually utter the declaration as stated by Williams? Williams himself was thoroughly convinced of the truth of what he repeated; for he introduces it with the emphatic words, "It is certain." Mr. Deane also candidly admits his sincerity so far as to say, "that he should have great confidence that Williams would not assert what he did not believe to be true;" but still he intimates that it is not safe to rely upon his statement: 1st, Because the occurrence took place twenty-five years before the letter to Mason was written; 2d, Because Williams, not being in England at that time, must have heard the story from Gorton or some other person.

Taking these objections, for convenience, in reverse order, I would observe, that hearsay evidence, here objected to, is admitted, even under the rigid rules of jurisprudence, on historical points, wherever it is the best evidence attainable. To discard it from history would leave us only a ghastly skeleton of the past. But no part of the evidence to which I shall refer, as the foundation of Williams's belief, was hearsay to him: it was the testimony of eye and ear witnesses.

I readily agree, that Gorton, in all probability, did relate the incident in question to multitudes in Rhode Island, and to Williams among the rest, soon after his return from England in May, 1648; and I think his account deserved full credit: for although unwarrantable attempts were made to disgrace and destroy him, because, unconsecrated by ordination and not privileged by a university education, he presumed to exercise the functions of a scriptural teacher, and because he was as steadfast as he was extravagant and heterodox in his religious opinions, insolent under provocation, and too ready to return railing for railing, yet the whole tenor of his life shows that he was conscientious, sincere, and, in matters of fact, honest and truthful.

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If, however, there were any errors in Gorton's story, Williams had, at a later period, ample opportunity to correct them. From the end of 1651 to the summer of 1654, he was in England, employed, jointly with John Clarke, as agent of the Colony to procure from the Council of State the abrogation of Coddington's Charter, and the confirmation of the Providence-Plantations Charter, obtained by Williams in 1644. Most of the distinguished persons, who, in 1644, were commissioners of plantations, were then living. Six of them, including three signers of his charter, were members of the Council of State in April, 1652, when the petition of himself and Clarke was presented, (Parl. Hist., xx. 78, 79). Two of these (Cornelius Holland and Sir Henry Vane) labored with him so zealously, that they received the thanks of the Colony for their eminent services in her behalf, (Backus, i. 296). Sir Henry aided in framing the petition, and exerted all his influence and personal ability to insure it success. Williams called him "the sheet-anchor of our ship," (*id.*, p. 280). He was on terms of such intimacy with Sir Henry, as to be, for more than ten weeks, a guest at Belleau, the country residence of Sir Henry, in Lincolnshire. Many, if not most, of these ex-commissioners were personally cognizant of all that had transpired at the Board at the hearing of Gorton's complaint; and there can be little doubt that Williams sought, and that they gave him, in the course of his last visit to England, full and authentic information in regard to the declaration of the Earl of Warwick.

Moreover, Winslow—the agent of Massachusetts and the other colonies, the old antagonist of Gorton—was still in London, and no doubt would, if he could, have contradicted the story of the earl's declaration; and as he and Williams, though personally friends, were unavoidably often brought into conflict where this very story would have been alleged as an argument in support of the Rhode-Island Charter, Williams's grave recital of it, sixteen (not twenty-five) years after, is strong presumptive proof, that the story was virtually or expressly confirmed, even by Winslow himself, the arch-enemy of Gorton and the Providence-Plantations Charter, and the official advo-

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cate of the "pretended" patent denounced by the declaration in question.

Now, whoever, in this host of competent and credible witnesses, might be his informant, Roger Williams had too much discernment and circumspection to misunderstand or misjudge, or to adopt credulously, and without proper scrutiny, the accounts they gave him. Nor would he be likely to forget the report of an incident of such paramount interest to him, so vitally important to Rhode Island, and so intimately connected with all his public labors, with the promotion of his long-cherished moral purposes, and with the grand achievement of his political life.

But Mr. Deane, as mentioned before, intimates that it is not safe to rely upon the statement of Williams, because it was made twenty-five years after the occurrence; leaving it to be inferred that Williams's memory was not to be trusted for that length of time.

This, I apprehend, is altogether a gratuitous surmise; an assumption not based on alleged facts, nor warranted on general principles, and specially contradicted by what we know of the latter years of Williams.

It is almost universally admitted, as a law of our nature, that, in aged persons, the memory retains its earlier more firmly than its more recent acquisitions; and that those impressions which are deepest are also the most permanent. Consequently, although Williams, at the age of seventy, might find that tame and ordinary occurrences of the preceding day, week, or month, were more apt than formerly to escape his recollection, yet he would not, on that account, be the less sure to remember accurately an incident of very great interest, which had been made known to him at the age of fifty-four, and which had been treasured up for sixteen years after, as a subject of reflection, and a frequent topic of conversation. Before we are called upon to disbelieve his account of such an incident, we should have positive proof of an extraordinary decay of his memory.

The facts, however, in his case, are proof to the contrary. Two years after this period of supposed infirmity, he was in

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such full possession of all his faculties, mental and corporeal, as to row his boat thirty miles in one day; and on the next, after a few hours' repose, to engage in a three-days' debate on fourteen propositions against three logical champions of Fox, the Quaker,—a contest which could have been maintained by no one without the aid of a strong memory and an unimpaired intellect, (Backus, i. 461; Knowles, p. 338). In 1677, (seven years after his letter to Mason was written), his memory was strong enough to enable him to give the world a full account of this three-days' debate and its sequel at Providence, in his "George Fox digged out of his Burrowes." His letter of the 6th of May, 1682, to Governor Bradstreet, (which is in the possession of this Society, and in which he solicited the governor's friendly aid towards the printing of Williams's manuscript discourses), furnishes us with an incident that demonstrates both that his memory was then good, and that he preserved it, by keeping it, at the age of eighty-three, in habitual exercise. He writes, "*By my fireside, I have recollected the discourses* which (by many tedious journeys) I have had with the scattered English at Narraganset, before the war and since. I have reduced them to those twenty-two heads (enclosed), which is near thirty sheets of my writing."

The confidence of his neighbors, who knew him best, in the fidelity of his memory, was manifested in various ways, and continued unabated to the close of his life. Three or four months only before his death, he was called upon to sign an instrument, intended as a settlement of the long-standing controversy, of which, five years before, he had drawn up a long and minute analysis, respecting the Pawtuxet lands.

An additional proof of the slight grounds upon which the accuracy of Williams has been brought in question is, that the main fact embraced in Earl Warwick's declaration was asserted by Williams's former colleague, in London, John Clarke,* and others, in the second of the reasons for joining the King's Pro-

* He was not strictly a colleague. He was the agent of Newport and Portsmouth; Williams, of Providence and Warwick.

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vince to Rhode Island, presented to Lord Clarendon in a petition drawn up five years before the letter to Mason was written. It is there alleged, that the grant "which Mr. Welles, (Welde), under-hand, got of the same country, was prohibited, being never passed the council-table nor registered," (R. I. Rec., ii. 162; 2 Mass. Hist. Coll., vii. 104). It may be added, that, still three years earlier, President Brenton told Edward Hutchinson, (the official agent of Massachusetts), that "the" Narraganset "Patent was not fairly got;" that "there was no such thing upon record in any court of England, for he had sent to search the records;" and says Hutchinson, in his letter to Secretary Rawson, 2d April, 1662, "find there theirs, but not ours," (Mass. Archives, ii. 26).

I should not have dwelt at such length on this particular head; but besides that, as a septuagenary, I felt bound to stand by my order, I have been pained to find, in grave history, the credibility of Roger Williams impeached on the same ground, for the purpose of shielding the injustice of our predecessors from merited censure.

Under the fifth head, Mr. Deane very justly corrects my error in stating that the Narraganset Patent is not mentioned by Winthrop; and points out an allusion made to it in a preliminary deliberation of the General Court of Massachusetts, nearly three years after the date of the patent. I beg to apologize for this oversight.

It is a long time—many years before I knew of any Narraganset Patent—since I read Winthrop's Journal continuously; and when, in 1860, I had occasion to consult it in reference to the patent, I naturally sought out those particular places where some notice might be expected of its character and origin; of the circumstances, agency, and instructions under which it was procured, or of its reception, and the use made of it here, especially at the return from England of Williams, of Gorton, and of his associates; in the instructions of 1646 to Winslow; and in those parts of the journal where the orders, letters, and passports, emanating from the Plantation Commissioners, are set forth at length: but, in all these places (above a dozen), the

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subject seems to be sedulously avoided, (Winth., ii. 25, 31, 76, 159, 173, 193, 212, 220, 251, 272, 280–283, 295–297, 298, 316, 318, 319, 322, 323). In mitigation of my fault, I would beg to say further, that the casual and solitary allusion to it, now brought to view, does not, in the slightest degree, affect the justice of my conclusion, that the silence of Winthrop was probably owing to his consciousness that the patent was worthless. His *comparative* silence, his carefully abstaining from *all* notice of it on so many fitting occasions,—especially when coupled with his total silence in regard to the letter written to him by Williams, disparaging the patent,—make it, as I said, probable, and, as I may now say, nearly certain, that he did consider the patent worthless.

At the deliberation just mentioned, the patent was objected to, because in it, as in others, the Parliament "reserved a supreme power in all things." But the parchment at the State House contains no such reservation; and, consequently, it is either not the patent spoken of in Winthrop, or else the speaker's knowledge of it was too slight and imperfect to give significance or value to any opinion he might have entertained or expressed concerning it. If we embaace the former branch of this dilemma,—that the State-House document is not the one spoken of in Winthrop,—then I was right in saying that it is "not mentioned in Winthrop," and my apology has been a mistaken appeal to your clemency. If, however, we adopt the latter alternative,—the ignorance of the speaker, (as I fear we must, there being no other than the State-House Patent known),—then, whatever he might have thought or said, is not, as Mr. Deane's language implies, an argument for the genuineness or validity of that instrument.

Having thus answered the several objections noted above, I would call attention to a further elucidation of the character of the document at the State House. It appears to have been drawn up, as is customary, with blanks for the date. Those blanks are now filled up with ink of a color, and in handwriting of a character, different from those of the body of the instrument; showing that they were so filled up at a later period.

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Regularly, the date of a patent would be the day on which it finally passed the Board, and was delivered for enrolment. (18 Hen. VI., c. i.) The completion of that formal act would be the beginning of its legal existence and force. An earlier date, or an antedate, would be a falsehood and a fraud. If it were intended to give the patent a retro-active operation, or to grant a title prior to its date, that must be expressed in the body of the instrument, but not in such a way as to falsify the execution of the instrument.

Now, the date inserted in the Narraganset Patent is the 10th of December, 1643. That day was Sunday,—a day, in those times, held so sacred, and kept with such strict and reverential observance, that on it no Parliamentary Board would venture to assemble for secular business, however earnestly they might have been importuned by our reverend agents, Thomas Welde and Hugh Peters, to break the Sabbath. The patent, therefore, bears on its face a falsity, which, while it shows conclusively of itself, independently of all other proof, that this instrument never passed the table, also debars it from all those favorable considerations, which, by law and usage, are justly extended, *prima facie*, to instruments in general.

This stain upon its character is deepened by another circumstance. The second signature in order of place is that of the Earl of Manchester; and of course it would also be second in the order of time, if the places indicated the order in which the signatures were successively written. It is certain that the order of personal rank was not adhered to, as in 1643 it surely would have been, had the patent been leisurely signed at the table; for the signatures of Lord Roberts and Sir Benjamin Ruddyer follow those of commoners. Now, there is hardly the remotest possibility that the Earl of Manchester was in London at any time between the 2d of November (the day when the Board of Commissioners was created by ordinance) and the 10th of December, the ostensible date of the patent. At that time, he was commander of the fourteen thousand cavalry ordered to be raised on the 26th of the preceding July, and was actively engaged in the civil and military superintendence of

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the seven associated counties assigned to his command. In his letter of the 12th of October, giving Parliament an account of his victory of that day at Horncastle in Lincolnshire, he announced his intention to march immediately to Gainsborough in the same county, and also to do his best to make a diversion in favor of Hull, then besieged by the royal forces; an enterprise which, with the heavy duties of his department, continued to the end of the year: for we learn, from the Lord General Essex's letter of the 18th of December to the Committee of Safety, that the greater part of Lord Manchester's horse was still in Lincolnshire; and from Manchester's own letter of the 22d of December, that the greater part of his force was then engaged against Gainsborough; and that his own head-quarters were at that moment at Cambridge, where he was guarding St. Neots, Huntington, and Cambridge (Parl. Hist., xii. 423, 466, 475). I find no proof of his being in London before the 13th of the following January; when, as speaker *pro tempore* of the House of Lords, he signed a letter to the Comte D'Harcourt, the French ambassador. It would, therefore, hardly be possible that he could have signed the patent *in London* earlier than about a month after the false date of the 10th of December (Parl. Hist., xiii. 25).

On the other hand, supposing the patent to have been sent to search him out somewhere in his seven counties, in despite of the various hazards, uncertainties, and delays incident to times and places of civil conflict, it would then be doubly manifest that the signatures to the patent were obtained, not in the regular way at the Board, but "under-hand," as imputed, by personal application, as in the case of a petition or a subscription-list, at different times and places; and hence it would almost inevitably happen, that, in some instances, it would not be convenient or practicable for the signer to affix his own particular seal, bearing some distinctive mark (his family crest or arms), as practiced then and from the time of the Norman Conquest (Spelman, Eng. W., ii. 253; Ruddiman, Introd., p. 97; Black. Com., ii. 305); and in other instances, though the signature might be given as a preliminary approval, yet the

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seal might be withheld from prudential motives, and a conviction of the propriety of awaiting the regular deliberations of the Board, in order to take time to mature an opinion, and not precipitately to pledge one's self to a measure which it might afterwards be desirable to recall.

Under such circumstances, the omission of a seal, or that wax, with no impression, should remain instead of a genuine seal, would, in one or more instances, if not in all, be very likely to occur; and the discovery of such a capital defect would suggest, to minds of a certain class, the expediency of protecting the instrument against future scrutiny by boldly cutting off all the tags, whether they had pendent seals or nothing on them. The credulity of the world would be counted on; for many persons would consider the remnant of each tag as good proof that a genuine seal had once been attached to it. That opinion was avowed and maintained, to my certain knowledge, in regard to this mutilated document, before it was known that the copy of it in Mr. Winthrop's collection was in existence. But those remnants prove nothing: if they do (as there are eleven remnants of tags, and but nine signatures), what do the two surplus remnants prove? Just as much as the others: merely that the parchment on which the document was written was once prepared for receiving seals, but not at all that seals were ever actually attached to it.

The Narraganset Patent, in its present state, and tainted as it is with an original falsity, would very justly fall under Heineccius's fourth class of falsified charters, which, as described by Ruddiman in his "Introduction to Anderson's Diplomata Scotiæ" (§ 46), comprehends such as are "so artfully cut, as if the seals had dropped from them, when there really never had been any there." The fact that Heineccius enumerates six ways in which frauds on seals were committed proves the frequency of the crime, and the cunning with which it was accomplished; and I know of no reason why our forefathers or their connections should not have shared the common exposure to such impostures.

We know not when or why the seals, if any, were cut off.

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It is said that the certified Winthrop copy proves that they were on in 1662. But had it so happened, that nothing but the present remnants of tags were extant at that period, I ask, Would not those remnants be as likely to be accepted in 1662, for ample proof of the original exsitence of the seals, as in 1860, when we know they were so accepted, although there was only the mutilated parchment to look at? That age was surely more credulous than this. To say nothing of local and personal interests, it is certain that party or sectarian zeal, and the extravagant prejudices of the time, would all have contributed more powerfully then than now to bias the judgment and belief, even of the officials employed to make the copy.

That copy also departs from the original, both in the order and in the orthography of the signatures. It does not indicate the actual position and places of the several seals; but on the contrary, if we took it for an exact copy, we should not know that the seals were pendent, but should also be led into the belief, that they were originally placed where certainly no seals ever were or could be placed in the original at the State House. It is clear that the copy was first written out with the signatures solely in succession. The insertion of the words, "& a seale," after each signature, was evidently an afterthought; for the intervals between the signatures being narrow, although a smaller size of handwriting, and a character for the word "and," after all but the first signature, were adopted, in order to crowd in the words, "& a seale," yet, in several instances, the interpolation overlaps the initial letter of the succeeding name, and in one instance is slanted upward to avoid treading upon the good name of Sir Benjamin Ruddyer, which it does not avoid after all.

However common and justifiable it may be, at the present time, in this country, to use, in similar cases, such general expressions as "*a* seal," instead of "*his* seal," yet, from inexactness, they are always defective, in point of evidence, respecting ancient sealed instruments, and especially so in regard to a charter, emanating, like that in question, from a Board of Commissioners, who, in their public acts, were enjoined to use their

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own seals. They are only proof of some seal or other, but not of a genuine seal; otherwise, supposing George Downing to have put his crest and arms on wax under each of the signatures alluded to, every one of these counterfeits would be metamorphosed into a genuine seal, if full faith and credit were given to such a certificate as the present.

On full consideration of all these circumstances, can we, on the strength of this certificate, be sure that Edward Rawson, to say nothing of some adroit interpolator, did not certify what he believed, rather than what he saw, of the seals? or that, if there, when the copy was made, they were the genuine particular seals of the signers? or, in fine, that they were not cut off, because they were, some or all of them, spurious?

The conduct of the Massachusetts authorities furnishes little evidence that they really considered the patent to be valid. A single instance, which at first sight favors such an inference, and in which that opinion would seem to be implied, is found in their letter to Williams of the 27th of August, 1645, (Mass. Rec., iii. 49). But that letter is cautiously worded. Abstaining from positive command, it says, in substance, "We think proper to give you notice of the charter we have lately received, that you may forbear to exercise jurisdiction, &c.; or else appear at our court, to show by what right you claim jurisdiction; or, in other words, yield us the jurisdiction quietly, or lose it by coming into our court." This has very much the air of a politic device, especially as it was the second attempt made that year to deter their neighbor colony from establishing a government under her new charter. That its main purpose was intimidation may be inferred from the account given by Winthrop of the first attempt, in which he says, "Although they had boasted to do great * things by virtue of their charter, yet they

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* The warning here alluded to produced the following reply, (Mass. Arch., ii. 6):—

"Our much hon^{d} friends & country men—Our due respects here premised—Having lately received a writing from the right worshipful your counsell deeply concerning yourselves and us, we pray your honorable attention to our answers.

"First, A civil government we honor and earnestly desire to live in for all

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dared not to attempt any thing," (Winth., ii. 220). To make the letter more formidable before it was despatched, an appointment was made of two commissioners, who were to negotiate with Parliament about the two conflicting charters (Mass. Rec., iii. 48). This auxiliary measure was suffered, and probably intended, to expire at its birth. Saltonstall, one of the nominees, never went on the mission; the other (Captain George Cooke) never acted; and no record exists of any instructions given them; nor was any thing done, in relation to agencies of the kind, for more than a year. The Massachusetts authorities well knew that the Rhode-Island or Providence-Plantations Charter was the only one recognized by Parliament; for that had been declared to them the year before by twelve members

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those good endes, which are attainable thereby, both of public and private nature.

"This desire caused us humbly to sue for a charter from our mother State & government, but as we believe your consciences are persuaded to govern our soules as well as our bodies, and, yourselves will say, we have *cause* to indeavour to preserve our soules and liberties which your consciences must necessarily deprive us of, and either cause greater distractions and molestations to yourselves & us at home, or cause our further removal & miseryes.

"Thirdly, Wee cannot but wonder that being now found in a posture of government from the same authority, unto which you & wee equally subject, you should desire us to forbeare the exercise of such a government, without an expresse from that authority directed to us.

"And we the rather wonder because our charter as it was first granted and first established, soe it was also expressly signified unto you all, in a letter from divers Lords & Commons, at the sending out of our charter, out of a loving respect both to yourselves & us.

"Besides you may please to be informed that his Excellency the Lo: Admiral hath lately divers times bene pleased to owne us under the notion of Providence Plantations, and that he hath signified unto us (as we can shew you in writinge) the desire of Plymouth to infringe our Charter, but his own favorite resolution not only to maintain our charter to his utmost power, but also to gratify us with any favors &c. In all which respects we see not how we may dare to yealde ourselves delinquents and lyable to answer in your courte way, as your writing seems to importe, why we cast not away such noble favours and grace unto us. It is true that divers amongst us expresse their desire of composing this controversy between yourselves and us, but considering that we have not only receaved a challenge from yourselves, but also from Mr. Fenwick and also from Plymouth and also from some in the name of the Lord Marquis Hamilton (of all which claims we never heard until the arrival of our Charter) we judge it necessary to employ our messengers and

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of Parliament, peers and Commoners, in the letter brought by Roger Williams, addressed to the Governor, assistants, and the rest of their friends in Massachusetts (Winth., ii. 193). Accordingly, in the instructions to Winslow, who went out the next year as commissioner, nothing whatever is said of the Narraganset Patent: and Winslow, so far from claiming any part of the territory for Massachusetts, claimed for Plymouth all that Massachusetts had pretended to be hers, and much more, without regard either to the patent, or to that absurd figment, the title by submission of the English and natives at Pawtuxet and Shawomet; and also, it must be confessed, without regard to his own personal and official admissions previ-

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agents unto the head and fountain of all these streams and there humbly to prostrate ourselves & cause for a finall sentence & determination—and this we are immediately preparing to do without any secret reservations or delays not doubting but yourselves will feel satisfied with this our course: And in the interim although you have not bene pleased to admit us unto considerations of what concerns the whole country as you have others of our countrymen, yet we cannot but humbly professe our readynesse to attend all such friendly and neighborly courses & ever rest your assured in all services of love.

"HENRY WATSON Sec^try*

"The Colonie of Providence Plantations
Assembled at Newport 9^th 6^mo 1645"

Address on the outside :—

"To the Right Wo^shpls and their much Honn'd Friends and Countrymen. The General Court of the Mattachusetts Colonie assembled at Boston."

It appears from a note on this letter, under Winthrop's signature, that it was submitted by the magistrates to the consideration of the deputies on the 16th of the following October,—a fortnight after the session began.

Neither this letter, nor the brief account in Winthrop's Journal of the warning which occasioned it, contains any reference to the Narraganset Patent. It is therefore safe to infer that the patent was not known, and did not arrive in this country, till on or just before the 27th day of August, 1645,—the date of the letter to Williams, in which it is mentioned as "lately received." If Welde had believed it to be a good instrument, or of any value, can any satisfactory reason be given for his withholding it for nearly a year and three-quarters after its date?

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* A recent careful examination of the original document in the office of the Secretary of State, Boston, shows the name of the Secretary appended, is "Henry Walton," "plainly and distinctly written," and not Henry Watson.—ED.

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ously made, verbally and in writing (Winth., ii. 295–301; 1 Mass. Hist. Coll., i. 276; Knowles, 405, 406; Clarke, Ill Newes, ix.; R. I. Rec., 50, 51; Backus, i. 72–74; Wins. Hyp. Unm. Ep. Ded., 82).

This view of the opinion actually held by the Massachusetts authorities respecting the unsoundness of the patent is confirmed by their total disregard to its provisions in the grant, made by the General Court in the month of October following the date of the letter to Williams, of the land and houses of Gorton and his companions at Shawomet to the Braintree petitioners. That act of spoliation not only trampled the Providence-Plantations Charter under foot, but was a direct contravention of the final clause of the Narraganset Patent, which "excepted and reserved from the premises granted all lands, &c., theretofore lawfully granted and in present possession, held and enjoyed by any of his Majestie's Protestant subjects." Whether the words "lawfully granted" were construed as confined to grants by English authority, or as also embracing Indian grants or purchases, the tenor of that clause was to protect English Protestants in their lawful possessions, and to exclude those possessions from the jurisdiction of the patentee colony. If the former, as the strictly legal interpretation, were adopted, Massachusetts would be bound, by her own previous acts and judicial decisions, to consider the whole country as "heretofore lawfully granted" by charter "either to Plymouth or to Mr. Fenwick," as Winthrop has it (Winth., ii. 143). If Indian titles or grants were also reckoned lawful grants, then Rhode Island, Providence, Shawomet, and every English settlement or homestead, within the patent, bought of an Indian chief, would be protected against all exercise of jurisdiction on the part not only of Massachusetts, but of the other colonies likewise. In fact, these Indian grants or purchases were recognized as lawful grants by the highest authority (the Commissioners for Foreign Plantations) in the Providence-Plantations Charter of 1644. In the preamble of that charter, they are mentioned, approved, encouraged, and, moreover, held so all-sufficient, as to supersede the necessity of any grant whatever

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of the soil; and the whole grant in the body of the instrument is, therefore, actually restricted to the dominion alone. This charter was enrolled, and accessible to the public; and the rulers of Massachusetts, who were legally bound to recognize it, might easily—and, from its importance to them, probably did, through their friends in England, or even Rhode Island—obtain a copy of it, or full information of its tenor, It could not have escaped them, that the dispossession of Gorton and his companions was in direct conflict with the tenor of the Narraganset Patent: and it is equally clear, that such a violation of its provisions is irreconcileable with the supposition, that they had any belief in its validity. Accordingly, when Plymouth, relying upon her imaginary charter-right to Shawomet, withstood this very Braintree grant, they placed the vindication of their contemplated spoliation upon the authority of a former order of the Commissioners for the United Colonies, and avoided all reference whatever to the Narraganset Patent. Indeed, they could hardly fail to see that its final clause reduced it to a mere phantom of a charter, not worth acceptance. Were the claims of the other colonies extinguished, it would confer, in the largest sense, nothing beyond a contingent or reversionary title to such territory, as, being unappropriated by English settlers, remained in the hands of the aboriginal lords of the soil. They also well knew that the claims alluded to had been effectually extinguished by the Providence-Plantations Charter, the only one recognized by Parliament.

The next year (1646), they received, from the Commissioners for Foreign Plantations, an order containing a fresh recognition of that charter, and permanently reinstating Gorton and his companions in their former possessions. This order was accompanied with a passport of the same date (15th of May), in favor of Gorton, Holden, Greene, and other late inhabitants, &c., signed by Warwick and nine other commissioners, including Mr. George Fenwick himself, requiring the governor and assistants to give them a free and unobstructed passage through any part of Massachusetts to their former abode. In the following year (1647), Winslow, having claimed Shawo-

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met particularly, as well as the whole territory, for Plymouth, and having alleged that the proceedings against Gorton were authorized by the four confederate governments, the Plantation Commissioners wrote to those governmants two letters, signed, as before, by Fenwick, in which the charter is again referred to as granted by themselves; and the injunctions in favor of Gorton are reiterated, as not to be disregarded until the colonies should prove that Shawomet was within the limits of any of their charters. This, Plymouth, the only claimant left, never could do; and accordingly, after waiting four years in the vain expectation of being furnished with the satisfactory proof required, Winslow indignantly complains of the disgraceful position in which he has been placed by the protracted inattention shown by his principals at home to the order of the commissioners, and says, "I shall be more wary hereafter how I engage in business of that nature," (Winth., ii. 272, 280, 318–20; Haz., ii. 178; Hutch. Coll., 229).

The magistrates, whether designedly or not, avoid all mention of the Narraganset Patent in their records. Even the letter to Williams, undoubtedly drawn up by themselves, appears only in the records of the deputies. Those of the magistrates contain the order for dispossessing Gorton and his fellow-proprietors, and show, that, in the eagerness of their zeal for expelling these heretics, they did not wait for the deputies' approval of the letter, but, virtually abandoning the only ground on which that letter could be sustained, passed the predatory Braintree grant six days before the deputies' approval was given. The three kindred subjects—the appointment of new commissioners for England, the pro-validity letter to Williams, and the anti-validity grant of Gorton's lands—were all, in spite of their incongruity, simultaneously agreed to by the deputies. The Narraganset Patent must have been very unacceptable to the rulers of Massachusetts, because the final clause, above mentioned, stood in the way of their favorite projects of securing an outlet to the ocean by Narraganset Bay, and of curbing the Narragansets and their fellow-countrymen (who had fled from themselves to take refuge in the tenderer mercies of these

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heathen savages of the wilderness), by the establishment of a strong plantation at Shawomet, to which they had set up a title sufficiently colorable to win, for the moment, the compliant favor of the Commissioners of the United Colonies. But had the patent been deemed valid, it is very probable that it would have been so construed or misconstrued as to confer the same power over Gorton and the rest of the proscribed in Rhode Island as had been cruelly exercised under the original Massachusetts Charter in the banishment of Williams, Wheelwright, Mrs. Hutchinson, and others, and atrociously and unlawfully, once before, on Gorton and his ten fellow-victims. Authenticated facts indicate that the patent had been an offence in the eyes of the rulers almost from the first. Before it was actually brandished as a sceptre of iron over the head of Roger Williams, we find from our records, that, at the first General Court after it was received, Welde, the reputed father of the patent, who, six months previous, had so much influence as to obtain the appointment of Pococke as a colleague, was ordered, with his fellow-commissioner Peters, to return home. The harshness of this recall was aggravated by the immediate appointment of the two new commissioners, Saltonstall and Cooke; and by the mention, at the same time, of the two charters for government, &c., in the lands adjoining Narraganset Bay, as the special subject of negotiation, which, by implication, the displaced agents were deemed no longer fit to manage. Wherever the commissioners are referred to, Pococke is mentioned by name, while Peters and Welds are slighted off anonymously as "other" or "the rest of the commissioners." This occurs even in the magistrates' vote of thanks, unconfirmed by the deputies, for "their care and pains in our affairs, and particularly that with Alderman Bartley." It is significant, that they were considered less deserving of thanks for the patent than for an affair which is believed to have been chiefly the work of Sir Henry Vane, (Winth., ii. 201, 248; Mass. Rec., ii. 137, 138; iii. 48).

When Welde and Peters were sent out, in 1641, the Massachusetts authorities were encouraged to expect great advan-

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tages from the Parliament, to which the king had just before, in the language of Winthrop, "left so great liberty," (Winth., ii. 25, 42, 98). A confirmation of the Massachusetts Charter was obtained, and, in 1643, an ordinance also, which relieved New England from English customs-duties on exports for actual use, and on imports of New-England growth. But, in that and the following year, Welde was occupied in polemical labors,—his publications concerning the Antinomians of New England, and William Rathband's censures of the New-England churches. Peters devoted his chief attention to public affairs, and probably found his chaplaincy under General Sir Thomas Fairfax often incompatible with the efficient discharge of his duty as commissioner. In September, 1644, Roger Williams, under the sanction of the letter, mentioned above, from lords and commoners in Parliament, came to Boston, from which he had been exiled eight years before; and brought the mortifying proof, that he had succeeded in obtaining a charter that would protect Rhode Island, as far as law could do it, from the intolerant antipathies and aggressions of the rulers of her more powerful neighbor. The bitterness of this disappointment was naturally poured out upon the heads of the more supine and unsuccessful agents of Massachusetts. Some of the censures inflicted on them are still extant: many more will always remain unknown. Winthrop accuses Welde of having "lost or forgotten" papers sent out to him; and the records mention that "we had received great detriment, because we had none in England to inform Parliament in our behalf," (Winth., ii. 272; Mass. Rec., ii. 161). It is probable that Welde, in self-defence at last, and near the date of the letter to Williams (27th August, 1645), sent out this abortive patent, not perhaps to be used as a legal instrument (for he knew its imperfections), but to prove that he had not been idle, and had nearly succeeded in his efforts to perfect the patent. Hence, after it had once, as an experiment, been held up *in terrorem*, and Williams, in turn, had communicated to Winthrop "what he believed weighty and righteous," the authorities were ashamed to make use of it, and wisely preferred to let it sink into oblivion.

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Thenceforward, in maintaining their previous pretensions to jurisdiction in the Rhode Island Colony until this pseudo patent was brought forward to subserve the purposes of the Atherton patentees,* they chose to rely upon the alleged titles

* The Winthrop copy of the Narragansett Patent was probably first shown to President Brenton; and in the following November, with Edward Hutchinson's letter of the 3d of that month, was dispatched to Governor Winthrop in London, to enable him to put "at rest" Mr. Clarke, the Commissioner of Rhode Island, who strenuously withstood the efforts of Winthrop to complete the Connecticut Charter in such a way as to deprive Rhode Island of the Narraganset Country. Hutchinson says, "By Sir Thomas Temple and Captain Scot, I perceive that Mr. Clarke is not yet at rest. We have a patent from the same commissioners of an earlier date, which I now send." In the preceding summer, Simon Bradstreet and the Rev. John Norton had been in London as Commissioners of Massachusetts; and although Bradstreet, both in his public capacity and from private interest as a co-proprietor in the Atherton Company, might be expected to defend the rights of this Colony and of the company in every justifiable way, yet it appears from the same letter that he never mentioned the Narraganset Patent to Winthrop. Hutchinson excuses this extraordinary silence by saying, "Mr. Bradstreet did not speak of it, because it was *in* your patent; and, being in the four United Colonies, questioned not a fair correspondence in it." (Trumb. Papers xxii, No. 33).

Winthrop probably learned from Clarke, that the copy of the patent sent was not worth the paper it was written on; but it was neither honorable nor ingenuous in Hutchinson to leave Winthrop blindly to grope his way in the use of this document, by withholding from him all knowledge of the fact, that it had been shown by Hutchinson himself to Brenton, the friend of Winthrop, (*id.* No. 35; and Mass. Arch. *ut supra*), and by him pronounced as "not fairly got," and "not registered in any court in England." But Hutchinson, though a gallant soldier and adorned with many estimable qualities, was apparently of the school which adopts for its motto, "All is fair in politics." He was himself the chief manager, in this country, of the affairs of the Atherton Company. The special agent in England was his correspondent and "unceremonious friend," Captain John Scot, who, after many great vicissitudes of fortune, had risen to considerable wealth, and insinuated himself into the good graces of the "men who steered" both in the four United Colonies and in England. That Hutchinson himself was not too scrupulous to wink at whatever expedients Scot might make use of in England for the good of the company, may be inferred from the fact, that eighteen months after this pseudo patent was foisted upon the pure and unsuspecting Winthrop, and near the day when Scot was convicted at Hartford of perjury, forgery and many other things, Edward Hutchinson was fined by the General Court of Massachusetts ten pounds for putting in more than one vote on the day of election (Mass. Rec. iv pt. ii 108).

From Scot's account of himself, in a petition to the king, (which, if untrue, was susceptible of speedy disproof,) and from our own records, it appears that he was the son of an Englishman of some fortune, who aided the king by an advance of fourteen thousand three hundred pounds, and lost his life in his service. For cutting the bridles and girths of the Paliamentary horses at

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by conquest and submission, although such titles divested their sovereign, rightful or *de facto*, of the acknowledged para-

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Turnham Greene, when the king's forces were at Brentford, (14th November, 1642), he was brought many times before a Parliamentary Committee, to whom he says a gift of five hundred pounds was paid "to prevent further mischief;" and was finally sent to New England under the care of Edward Downing, then in England, of whose treatment of him he complains as perfidious (Hutch. Coll., 380.) He probably arrived, with other children brought by Mr. Downing, in the beginning of September, 1643; and for the care of whom a committee of four was appointed, and required "to dispose of the children, to call for their beds, and to see that satisfaction be procured and paid in" (Mass. Rec., ii. 45). The next year, 13th November (*id.*, 89), Mr. Downing was called upon to give an account of the children taken into the ship, their names, where landed, and to whom delivered. Funds, and perhaps Scot's five hundred pounds, were placed in Downing's hands on account of the children, and received by the committee, as appears from the Court's order to the committee to pay Captain Cooke, soldiers, &c., who went to seize Gorton's company, out of the Committee's money, which was to be "repaid when it came in."

Scot was placed by Downing with his neighbor Laurence Southwick, who afterwards, with all his family, suffered imprisonment, whipping, and ruinous fines, during the Quaker persecution; and, in 1659, was banished with his aged wife. In May, 1648, the General Court ordered that John Scot should serve his master so much longer, after his term of service expired, "as should be well worth thirty-five shillings," or satisfy his master in some other way. After this, "being," as he says in his petition, "obliged to court any employment to acquire a livelihood," he went to Long Island, of which, as his petition states, "he purchased near one-third part."

In 1654, during the war between England and Holland, the Dutch settlements on Long Island, as well as on the main land, having been much harassed by frequent incursions and robberies committed by nocturnal marauding parties, the Dutch authorities, knowing that such proceedings were not sanctioned by the Colonies generally, whose interest in an illicit trade with the former led them to adopt a neutral policy, ordered the arrest of suspected parties; and, under this order, John Scot and five others were arrested, and sent to New Amsterdam, where they were examined, and, after a short detention, discharged (Brodhead, 579).

In the same year, Captain Nathaniel Silvester, of Shelter Island, brought an action of defamation against Scot and his neighbor John Yongs (probably eldest son of the minister of Southold); but on John Yongs bringing a counteraction of the same sort, in which John Scot might possibly be a formidable witness, the action was settled by private agreement (N. Hav. Rec. ii. 89, 92).

In 1659, his aged master, Laurence Southwick, with his wife Cassandra, who had both been banished from Massachusetts, (Mass. Rec., iv. pt. i. 367), in June of that year, took refuge at Shelter Island, then owned by Captain Silvester, Scot's former antagonist; and there, soon after, exhausted by their sufferings under a cruel persecution, and their consequent indigence and grief, they died within three days of each other (Bishop's N. Eng. Judged, pt. i. 89).

In 1660, Oct. 6, Scot "caused much embarrassment to the people of South-

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mount right to the soil and dominion, and arrogated powers of which their chartered corporation was legally incapable

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ampton." They were originally emigrants from Lynn, Mass.; so near the scene of Scot's apprenticeship, that he was enabled to give them interesting news of the persons and places they had left behind. They bought of him lands, which, he said, he had bought of the Indians; but, after much litigation, the conveyances were found fraudulent and void (Brodhead, 671).

In 1661, he was in London, and perhaps in the preceding year; drawn thither with his former fellow-prisoner, George Baxter, by the news of the restoration. He returned in the autumn of the following year, with Sir Thomas Temple. Hutchinson, in his letter of the 3d November, 1662, mentions him, together with Sir Thomas, to Winthrop, as the channel through which he derived the information, originating, no doubt, with Winthrop, "that" Mr. Clarke "was not yet at rest." He returned almost immediately to London, and might have been the bearer of the Winthrop copy of the patent which accompanied that letter (Trumbull Papers, xxii. No. 33).

From Scot's letter of the 29th of April following, to Edward Hutchinson (*id.*, No. 35), we find that he had been laboring in vain to "put Mr. Clarke at rest," through the instrumentality of Winthrop, who, he says, "was very averse to my prosecuting your affaires; he having had much trouble with Mr. Clarke while he remained in England." But, as Winthrop would not be a tool, and was no longer an obstacle to the prosecution of Hutchinson's Atherton-Company affairs, Scot determined to encounter the task assigned him, by himself and in his own way.

The grand object was to procure a royal letter, which would place the Narraganset lands claimed by the company under the authority and special protection of Massachusetts and Connecticut, to the utter exclusion of Rhode Island. To obtain this letter, as soon as Winthrop had left the Downs, "a potent gentleman," as Scot calls him, had been taken "into the Society;" and a petition had been preferred by Scot "against Clarke, &c., as enimys to the peace and well-being of his Majestys good subjects;" and, to make more sure of the royal letter asked for in the petition, curiosities to the value of £60 had been brought "to gratify persons that are powerful."

The "potent gentleman" was Thomas Chiffinch,—the "*noble* Mr. Chiffinch," to whom Scot sent his "service" the next year, in his letter to the Secretary Williamson (N. Y. Col. Doc., iii. 48); the court pimp; the willing abettor of every vile court intrigue; the man who, to furnish assurance of the royal sanction, contrived the interviews between Charles II. and Dangerfield, the assassin from Newgate, hired to murder the discarded Premier Shaftsbury; and who afterwards stealthily admitted the Catholic confessor to the dying monarch (Life of Shaftsb., 141, ed. 1683; Burnet, O. T., 1685).

Scot's efforts were crowned with complete success. Chiffinch, and the "powerful persons" who were *gratified* with the £60 worth of curiosities, "accomplished the business" of Hutchinson and his Atherton associates. On the 21st of June, 1663, the expected letter was signed. The king was probably both ignorant of its import, and indifferent to it; or, as on most other like occasions, relied upon the account given him by his constant attendants. The letter was addressed to the Governors and Assistants of the Massachusetts, Plymouth, *New Haven*, and Connecticut Colonies. In the preamble, the Atherton asso-

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(Mass. Rec., iv. pt. ii. 174–7). The lamentable principle of intolerance, which too many of them, in the spirit of the age,

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ciates, with Thomas Chiffinch at their head, and John Scot next, are represented as "just proprietors of the Narraganset Country," and as "desirous to improve it into an English Colony, . . . to the enlargement of our Empire and the common good of our subjects;" yet "daily disturbed and unjustly molested in their possession and laudable endeavors by certain unreasonable & turbulent spirits of Providence Colony, . . . to the great scandal of justice & government, and the imminent Discouragement of that hopeful plantation."

The proprietors were "effectually" recommended by the king to the "neighborly kindness and protection" of the colonial rulers; "to be permitted peaceably to improve their *colony* & plantation;" . . . and, "on all occasions," to be assisted "against such unjust oppressions and molestations, that so they may be secured in the full and peaceable enjoyment of their said country, according to the right and title they have to it." . . . This extraordinary mandate was a perversion of the character and facts of the Atherton controversy, as well as a virtual sanction of the unwarrantable proceedings of Massachusetts and Connecticut, in regard to lands lying within the chartered limits and sole jurisdiction of Rhode Island. It not only ignored those proceedings and the still existing charter of Rhode Island, but the signal and important fact, that New Haven, included with the other colonies in its address, was, at the time, a political nonentity, having been absorbed by Connecticut as a part of her own territory, defined by her charter of the 10th of May in the preceding year. It also substantially set aside the agreement made between Winthrop and Clarke, under which the Atherton Company, in the exercise of its stipulated right of option, had already placed itself under the jurisdiction of Connecticut, by placing it anew under the special protection of the four colonies (N. Hav. Rec , ii. 511, 525; Hazard, ii. 498).

This letter was countersigned by Bennet, soon after Lord Arlington, the enemy, and patron of all the enemies, of Clarendon, who undoubtedly was kept in profound ignorance that there was such a document in existence. That this was so, may be inferred from the fact, that, only seventeen days after the date of the letter in question, Clarendon passed, under the Great Seal, the Royal Charter of Rhode Island, in which the agreement was recognized, and the injunctions of the letter practically annulled.

That the means by which the letter had been procured were known to the Atherton associates, was a matter of course; and it was only natural that they should become known to many. The circumstance that Scot's letter to Hutchinson was placed among the papers in the collection of Governor Trumbull, is a confirmation of this supposition; which may account in part for the anxiety displayed, at a later period, by the governments of the other colonies in Scot's behalf, when arrested by Connecticut. But the royal letter was received, on Scot's return, with none the less readiness. New Haven made it the foundation of a renewed but unavailing resistance to the measures adopted by Connecticut to enforce the union. The commissioners of the three orthodox sister colonies appealed to it, with loyal respect for its authority, even after the arrival of the Rhode Island Charter.

The prayer of Scot's petition in his own behalf, mentioned before, was that

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gloried in upholding, led them at various periods to the verge of treason, to tyranny over the consciences of their fellow-

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he might be appointed Governor of Long Island, or liberty be granted to the inhabitants to choose a governor and assistants yearly. In the reference of this petition to the consideration of the Committee of Foreign Plantations, Bennet premises that the king, "having received good testimony of Scot's loyalty & great sufferings, and being fully satisfyed of his particular abilities to serve him, was graciously inclined to encourage him in his desires."

To forward his project for obtaining the government he sought, Scot's first step was to complain to the Committee of Foregn Plantations of the intrusions of the Dutch into the main land of New England, some islands adjacent, and in particular on Manhaddoes and Long Islands. In consequence of his representations, the committee, on the 6th of July, ordered "Captain Scot, Mr. Maverick, and Mr. Baxter, to draw up a brief narrative, showing the King's title, the Dutch intrusion, their deportment since; management, strength, trade, and government there; and, lastly, the means to make them acknowledge or submit to the King's government, or to compel them thereto. or expulse them" (T. A.'s N. York MSS. Papers, i. fol. 11; N. York Hist. Doc., iii. 46). Maverick's petition concerning Massachusetts, mentioned in the sequel, and which led to the appointment, in the following year, of himself and three others, as Royal Commissioners to the colonies, was probably formed about this time, in co-operation with Scot's plan for subjugating the Dutch colonists; and likewise, that in order to gain the favor of the Duke of York, and consequently that of Clarendon, for the scheme, suggestions were made in regard to the expediency of bestowing upon the king's brother the important territory to be recovered from the Dutch; which was effected by the king's letters-patent, on the 12th day of March, 1664,—nearly half a year before the actual surrender by the Dutch Governor Stuyvesant.

Scot, on his return, carried with him the famous letter, and the royal instructions enforcing the observance of the navigation-laws; which, of course, would put an end to any open illicit trade with the Dutch colonists. He was received, on his arrival, with cordial welcome. The great men of the different colonies who were associated with the Atherton Company were grateful for the efforts which had secured for it the royal favor, and also effectually placed it under the broad protection of the Confederated Colonies. Hew Haven proclaimed her gratitude by her vote, that Scot "had been a good friend to the Colony in general, and to some persons in particular" (N. Haven Rec., ii. 515). She paid all his expenses; and furnished him with an armed force, when he soon after went to Long Island. Connecticut appointed him a commissioner at Setawket (or Ashford), with magisterial power throughout Long Island. Winthrop himself administered the oath of office to him and his colleagues, Talcott, Young, and Woodhull.

After writing a letter on the 14th December, 1663, to the Secretary Williamson, to caution him against the Dutch, and to send his "service to noble Mr. Chiffinch," he proceeded to Long Island; and, on the 31st of that month, addressed a letter to Governor Stuyvesant respecting that island. On the 11th of January following, he, with Captain Young (Yongs), was at the Dutch village of Midwont, with sixty or seventy horse, and as many foot, with flying

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men, and to inhumanities that wring the heart of the modern Christian. It is not wonderful, therefore, that, through

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colors, drums beating, and trumpets sounding. When called upon to show by what authority he came in that warlike manner, he exhibited a letter, drawn up by the magistrates at Hartford, for him and his colleagues to inquire what right the Dutch might have to Long Island. He then, as the Dutch report states, "stuck it back in his pocket, saying, 'If Mr. Stuyveysant come over, I shall speak to him of weightier matters," (N. Y. Hist. Doc., ii. 393—4).

He came ostensibly in pursuance of his instructions to bring the English settlements or villages, which the Dutch had recently at Hartford agreed to relinquish, to accept the jurisdiction of Connecticut. But these communities were not unanimous in regard to the proposed annexation. The inhabitants who were in favor of it complained of the indirect and ambiguous language of the Connecticut authorities; while, on the other hand, all the Quakers, Baptists, and other heterodox sectaries, dreaded a Puritan thraldom; and no doubt the deported loyalist Scot cordially sympathized with them (Brodhead 725).

He thought the time had now come when he might drop the mask, and openly take service under the duke's banner. He therefore announced to the people, that the king had granted the island to the Duke of York, who would shortly make his intentions known. A number of the English villages combined in rejecting the proffered union with Connecticut; and empowered Scot, as their president, to provide for the public safety and welfare (Brodhead, 726). Under this independent temporary authority, it appears that, not content with the English parts of Long Island, about the 28th of February he claimed the whole of it, and the entire province of New Netherland besides (N. Y. Hist. Doc., ii. 231.)

But his dream of ambition was speedily interrupted. The magistrates of Connecticut, exasperated at being thus perfidiously baffled in their scheme for acquiring territory outside their charter limits, ordered his arrest on the 10th of March. He was soon after apprehended, and brought to the Hartford prison for trial. While there, he was dangerously ill; and, as Governor Leete wrote, likely to die, as Scot conceived, by poison.

Still Scot's condition was not hopeless. He had won the gratitude of New Haven: and her Governor Leete, who was propably indebted to Scot's friendly efforts in England for escaping all question in regard to the concealment of the fugitive regicides, wrote to the magistrates of the Colonies of Plymouth and Massachusetts, entreating them, "as Confederates of a special interest in the weale publique & peace of the country, . . . to do their *utmost* for the prevention of Captain Scot's ruin, and the hurt that may come thereby to the country; he being reputed his Majesties servant, and upon service now, by letter to the *united* Colonies, when thus obstructed; . . . and if . . . the *matter & manner how* do come to be narrated, as it is likely to be, no one appearing to prevent it, all may be damnified." His "thoughts and desires are that the Governor of Plymouth may advise agreement, and the Commissioners of the United Colonies be called to Hartford to see and appoint what is to be done, & how," in the matter. He names the 8th of May as the time fixed for Scot's trial (Mass. Arch., ii. 183).

Governor Leete had a particular concern for New Haven, which he consid-

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agencies to which this noxious principle gave birth, the adjoining heretic colony should be obstructed by many unworthy

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ered to be "struck at in the business;" and he had also cause to share, to some extent, in the apprehensions which his obscure but well-understood and ominous intimations were calculated to excite in the minds of the Massachusetts rulers (Hutch. Coll., 334).

According to Chalmers, from the Restoration to 1682, when, by Cranston's advice, the "General Court attempted to bribe the King," they had tampered with the fidelity of the king's ministers, and kept in constant pay the clerks of the Council, in order to learn the "secrets of administration." He does not specify instances; but he gives several names, and refers to the files of the State-paper Office (Chalmer's Pol. Ann., 412—13, 461). In the sequel, it will appear that documents were surreptitiously obtained, and conveyed to the Governor and Council; and, in one instance, by Scot himself. The presumption that Scot was regularly employed in such service, while in England, is strengthened by the fact, that almost immediately after his return, when they were called upon to account for their seizure and imprisonment of Saunders and Burdett, and particularly needed some one to replace him, the magistrate in council, on the 31st of December, 1663, adverting to the circumstance, that they had sent to Secretary Morrice by the last ship, a "true narrative of the difference between" them "and Rhode Island, appointed a committee of three (Willoughbly, Danforth, and Leveret), and empowered them to improve some friend or friends in England, as they shall judge meete, to make way for the improvement of our *information*, &c., and giving us the best advice how our affairs stand in England, and *prevent all inconveniences the best they may;* and the charges . . . expended . . . thereon" should "be repaid seasonably . . . out of the publike Treasury" (Mass. Arch., vol. cvi. p. 71.)

On the 18th of the following May, the General Court approved of the measure and appropriated £400 to carry it out (Mass. Rec. iv. pt. ii. 101).

Governor Leete's letter was brought by Scot's servant; from whose relation, and from Scot's papers, brought at the same time, a full knowledge might be gained of "the transactions of a cloudy aspect," which had occasioned "the extremity of hazards to him and the country." Five days after the date of Leete's letter, the Massachusetts magistrates commissioned General Leveret and Captain Davis to negotiate with the authorities of Connecticut about Capt. Scot; and the next day, 28th of April, Governor Prence, of Plymouth, who had been written to already by Secretary Rawson, wrote urging them to do what they had already done, on the ground that it was "a case in which the *whole* might be deeply concerned." He afterwards fulfilled his promise contained in this letter by sending Bradford and Southworth as commissioners to Hartford (Mass. Arch., ii. 184; Hutch. Coll. 384).

The combined interposition was unavailing. Scot was brought to trial in the Particular Court at Hartford; and on the 24th of May, 1664, was convicted on ten charges, among which were usurpation of the king's authority, forgery and perjury. He was sentenced to pay a fine of £250; to be imprisoned during the pleasure of the Court; to give security to the amount of £500 for his good behavior; to be degraded from the office of commissioner on Long Island; and to be disfranchised. His estate was sequestered; and, in 1665, his former col-

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expedients in her anxious efforts to establish order and a regular government under her charter. To this end, under a pre-

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league, Tacott, and Allen, the Secretary, were empowered to sell his land on Long Island, to pay his fine (Conn. Rec., ii. 16). They probably found some difficulty in executing this Connecticut commission, owing to an intermediate change of circumstances. Scot had escaped from prison ; Long Island had been granted to the Duke of York ; the Royal Commissioners (Nicolls, Cartwright, Carr, and his old friend Maverick) had arrived ; and Scot placed himself under their protection, so advantageously, that, according to the Dutch report, on the 25th of August (4th September, N. S.), two days before New Amsterdam surrendered to Colonel Nicolls, Scot, "who had heretofore summoned Long Island," joined the English force with his horse and foot (N. Y. Hist. Doc., ii. 393).

It will be recollected, that Scot, in his petition to the king, stated that he had "purchased near one-third part of Long Island." This might be so, but as the Indians, of whom he purchased, often sold the same land, over and over again, to different individuals, who, in turn, often had no written license or confirmation from the agent of Lord Sterling, his title, in common with others, would frequently be brought into question and angry controversy. A great dispute of this kind between the inhabitants of Jamaica, Long Island, was adjusted by Colonel Nicolls, as Deputy-Governor, under the duke, of his possessions in America, on the 2d of January, 1665. Some of Scot's ubiquitous purchases were very probably among the subjects of this litigation ; which proved so troublesome and embarrassing to Nicolls, as to induce him to ordain, that no purchase from the Indians, without the Governor's license, executed in his presence, should be valid (Smith's New York, p. 27).

Hardly was this controversy disposed of, when Nicolls was troubled with a complaint laid before him by Secretary Allen, on the 1st of February, that "Scot, according to his wonted course, was creating disturbance among the people of Sewtawket, by laboring to deprive them of their land, which he claimed by purchase from Indians" (N. Y. Doc., ii. 86).

About this period, Nicolls appears to have lost all confidence in Scot. He was well aware that Scot had coveted and expected the government of Long Island. Nicolls, a wise, upright, and zealous servant of the king and the Duke of York, preferred to retain it, rather than encounter the hazard of intrusting it to Scot. In a letter to the duke, written probably in November, 1665 (N. Y. Hist. Doc., iii. 105), Nicolls says, "Scot, born to work mischief as far as he is credited or his parts serve him, contrived and betrayed Lord Berkely and Sir George Carteret into a design of ruining all hope of increase in your royal highness's territory;" *i. e.*, by the grant to them of all his territory west of Hudson's river.

This letter, which gave the duke the first information that the names of New Amsterdam and Aurania had been changed into those of his two titles, York and Albany was followed on the 24th of October, 1666, by another respecting Scot, addressed to Secretary Morrice, in which Nicolls says, "I think it my duty to inform you that a copy of his Majesty's signification to Massachusetts was sureptitiously conveyed over to them, by some unknown hand, before the original came to Boston ; and formerly the very original of Mr. Maverick's

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tence of jurisdiction too shallow ever to be submitted to the judgment of the Commissioners of Plantations, heathen savages

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petition to the Privy Council, concerning Massachusetts, was stolen out of Lord Arlington's office by Captain John Scot, and delivered to the Governor & Council at Boston. This I affirm positively to be true; though Scot, when I questioned him upon the matter, said that a clerk of Mr. Williamson's gave it him. The same Scot, by a *pretended seale, affixed to a writing*, in which was the King's picture drawn with a pen or black lead, with his Majesty's hand, Charles R., and subsigned H. Bennet, had horribly abused his Majesty's honor in these parts, and hath fled to Barbadoes. Lord Willoughby sent word that he would send him toEngland" (*id.*, iv. 136)

Thus terminated the American career of Scot. Of the subsequent events of his life, nothing certain is known. With all his faults, he had the adroitness to acquire no small favor with leading men, both in this country and in England, and to be on terms of familiar intercourse with them. His complaint against the Dutch intrusion, aided, if it did not originate, the design of sending out the first expedition against the Dutch possessions in this country. It naturally contributed, together with his own suggestions, and those in the narrative drawn up by himself and his colleagues, Maverick and Baxter, to the royal grant, made to the Duke of York, of those possessions, before they were actually gained by the English forces; and it paved the way for the duke's subsequent transfer of the Jerseys to Lord Berkeley, the President of the Committee, before whom the complaint was laid, and to Sir George Carteret, the friend and naval associate of the duke.

Up to the period of his conviction, he appears to have stood well with the highest public men of this country; and there was no visible reason why it should not be so. He was not deficient in education : he had raised himself to considerable wealth, to the rank of captain and of commissioner ; and had been employed confidentially abroad, both by Massachusetts and by the Atherton Company, which comprised some of the dignitaries of the land. If Winthrop had believed him to be unworthy, he would neither have consented to his appointment as First Commissioner for Long Island, nor have administered to him the oath of office Winthrop's objection to Scot's "prosecuting" Hutchinson's Atherton "affairs, while he remained in London," was founded, not on any personal aversion of his, at that time, to Scot, but obviously on the reason assigned in Scot's famous letter to Hutchinson; namely, that "he," Winthrop, "had had much trouble with Mr. Clarke." That trouble having been amicably terminated, he was unwilling to revive it in any shape; and least of all, we may be sure, as no doubt Scot was, would Winthrop be a party to a contrivance for vitiating his own plighted faith by falsehood and the defamation of Clarke.

The plan of Scot, on the other hand, which he probably did not dare to disclose to Winthrop, was to make the ruin of Clarke's reputation the basis of all his sinister proceedings in behalf of the Atherton Company.

As these all had at least the tacit sanction of Hutchinson, and means were furnished for them, it follows, almost unavoidably, that Hutchinson did employ him, with a latitude of discretion that allowed him to take himself and Chiffinch "into the Society," and to expend money in bribes as he "might deem meet." It is a matter of history, that the fruits of Scot's knavery were received with

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and lawless white men within her chartered limits were upheld in resistance to the lawful authority in riotous, vicious, and disorderly practices, in molesting the families, and in depredations upon the defenceless property, of the inhabitants. When in danger of attack from the Narragansets, Rhode Island, with her hundred and twenty Christian English families, was refused the sale of the smallest supply of powder; while ammunition

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gratitude, and without compunction. The letter filched from the king was vaunted as more authoritative than the Charter of Rhode Island, bearing the royal sign manual and the Great Seal of England; and likewise as crowning proof that the charter itself was basely and insidiously obtained, although it is demonstrable that the charter was known to have been framed openly, and with unusual deliberation. For that part of it relating to Narragansett, and therefore most unacceptable to its impugners, was founded on the award of five arbitrators, agreed to and accepted by the Commissioners of Connecticut and Rhode Island, the colonies most interested in the matter; and another clause, providing for the freedom of religious opinion, was inserted by the king's special order. Roger Williams, in his letter to Mason, says, "This his Majesty's grant was startled at by his Majesty's high officers of state who were to view it" (the charter) "in course before the sealing; but, fearing the lions roaring, they couched, against their wills, in obedience to his Majesty's pleasure." Can there be, at this day, any ground for believing that the charter was obtained by chicanery, or that the king signed it in ignorance of its purport? (Haz. ii. 499; Bancroft, ii. 64; Arnold, i. 300–9, 383–5; Plym. Rec., x; Acts of Com. U. C., 320.)

In regard to the clause in the Connecticut Charter respecting Narraganset, the truth appears to be, that Winthrop, not having, as the correspondence shows, very definite notions of the topography of Narragansett, depended too much upon the representations of Hutchinson, whose agency and frequent and long visits had made him more familiar with all the localities; and whose unscrupulous subordinate, Scot, had sufficient topical knowledge, as well as art and shrewdness, to persuade Winthrop, that the estuary at the mouth of Pawcatuck river was called Narragansett Bay, as the Pawcatuck itself, bordering upon the country of the Narragansett Indians, would naturally often be popularly called the Narragansett River; just as, for the same reason, the same name, Narragansett, was, so early as 1634, applied to the north branch of the now Taunton River, which bordered the eastern side of the Narragansett possessions (Wood's N. Eng. Prosp. map; Arnold. *ut supra*).

It has been mentioned before, that Scot might have been the bearer of the copy of the Narragansett Patent sent to Winthrop in London. Whether he were so or not, as confidential agent and co-proprietor of the Atherton Company, he had free access to it, both here and in England. He was quite capable and ready to fabricate any expedient interpolation; and his friend Chiffinch would have cheerfully brought all the skill of London to his aid. These circumstances throw an additional shade of doubt on the genuineness of the after-insertions, respecting seals, in the Winthrop copy.

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